

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

619J0575

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 80** - 01/26/2004

Introduced by: Senators Knudson and de Hueck and Representatives Murschel, Cutler,  
Deadrick (Thomas), and Williamson

1 FOR AN ACT ENTITLED, An Act to establish a time limit for the filing of a civil action in lieu  
2 of a hearing in certain human rights complaints and to permit the disclosure of confidential  
3 investigatory materials after a determination in a discrimination proceeding.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 20-13-32.2 be amended to read as follows:

6 20-13-32.2. Prior to the issuance of a ~~probable cause~~ determination under § ~~20-13-32~~ 20-  
7 13-1.1, 20-13-28.1, or 20-13-32, information and materials regarding a charge of discrimination  
8 obtained by an investigating official are confidential. Notwithstanding §§ 1-27-29 to 1-27-32,  
9 inclusive, after the issuance of a ~~probable cause~~ determination and upon receipt of a written  
10 request and payment of costs for copying, all investigatory materials may be disclosed to the  
11 parties or their counsel of record.

12 Section 2. That § 20-13-35.1 be amended to read as follows:

13 20-13-35.1. No later than twenty days after the issuance of notice requiring the respondent  
14 to answer the charge, the charging party or the respondent may elect to have the claims asserted  
15 in the charge decided in a civil action, in lieu of a hearing, under the provisions of this section.



1 Any civil action shall be filed within one year of such election. Upon receipt of notice of  
2 election, the Division of Human Rights or the Commission of Human Rights has no further  
3 jurisdiction over the parties concerning the charge filed. The Division of Human Rights or the  
4 Commission of Human Rights shall notify the parties in writing of the election and of the one  
5 year limitation period in which to file a civil action. The limitation period in which to file a civil  
6 action begins on the date of the notice of election. In a civil action, if the court or jury finds that  
7 an unfair or discriminatory practice has occurred, it may award the charging party compensatory  
8 damages. The court may grant as relief any injunctive order, including affirmative action, to  
9 effectuate the purpose of this chapter. Punitive damages may be awarded under § 21-3-2 for a  
10 violation of §§ 20-13-20 to 20-13-21.2, inclusive, 20-13-23.4, 20-13-23.7, or 20-13-26.  
11 Attorneys' fees and costs may be awarded to the prevailing party for housing matters.